

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|-------------------|
| JAMAAL A. MCNEIL, |) | 8:09CV287 |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | MEMORANDUM |
| |) | AND ORDER |
| UNITED STATES OF AMERICA, |) | |
| the, |) | |
| |) | |
| Defendant. |) | |

This matter is before the court on Plaintiff's Motion for Leave to Proceed In Forma Pauperis (filing no. [2](#)) and other motions filed by Plaintiff.

In at least five cases prior to this matter, Plaintiff has been informed that, on three previous occasions while incarcerated, he filed a complaint that was frivolous, malicious, or failed to state a claim upon which relief may be granted.¹ Therefore, because he had "struck out" under the provisions of [28 U.S.C. § 1915\(g\)](#), Plaintiff was not permitted to proceed in forma pauperis ("IFP") without first showing that he was in danger of imminent harm. In each case, the court permitted Plaintiff the opportunity to either pay the entire filing fee or to show cause why the matter should not be dismissed pursuant to [28 U.S.C. § 1915\(g\)](#). In each case, Plaintiff failed to do so. The court carefully reviewed Plaintiff's filings in those cases and determined that Plaintiff failed to show that he was entitled to proceed IFP. The court therefore dismissed each case pursuant to [28 U.S.C. § 1915\(g\)](#).²

¹These five cases are Case Nos. 4:09CV3114, 4:09CV3115, 8:09CV231, 8:09CV256, and 8:09CV281.

²Notably, in Case No. 8:09CV281, the court also ordered that Plaintiff would no longer be permitted to file a complaint in this court and proceed IFP without first seeking leave to do so.

This matter is no different. Plaintiff “struck out” under [28 U.S.C. § 1915\(g\)](#) long ago. With this in mind, this matter is dismissed with prejudice, and all of the pending motions are denied.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Complaint (filing no. [1](#)) is dismissed with prejudice.
2. All other pending motions are denied.
3. A separate judgment will be entered in accordance with this Memorandum and Order.

November 5, 2009.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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